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# SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1943

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## No. 673

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ROY CHARLES THOMPSON, Debtor-Bankrupt,
Petitioner (Appellee Below),

vs.

FARMERS BANK OF LOHMAN, Lohman, Missouri,
Respondent (Appellant Below).

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## RESPONDENT'S BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

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HARRY G. WALTNER, JR., ESQ.,
Jefferson City, Missouri,
Counsel for Respondent.

SAM BUSHMAN, ESQ.,
Jefferson City, Missouri,
Of Counsel.

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vs.

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## BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

Respondent says that the petition for certiorari filed in this case ought not to be considered by the Court, or if considered, should be denied, because the petition itself does not contain a statement particularly disclosing the basis upon which it is contended that this Court has jurisdiction to review the judgment in question, as prescribed by Rule 38 of this Court; and the petition does not contain a statement referring distinctly to the statutory provision believed to sustain the jurisdiction as prescribed by Rule 12, par. 1, of the rules of this Court; and

Because the petitioner has not presented a separate typewritten statement particularly disclosing the basis upon which it is contended that this Court has jurisdiction to review the judgment of the Court below as prescribed by Rule 12, par. 1 of this Court.

Rule 38, par. 2, of this Court provides: "The petition shall contain a summary and short statement of the matter involved; a statement particularly disclosing the basis upon which it is contended that this Court has jurisdiction to re-

view the judgment or decree in question (see Rule 12, par. 1) * * *."

Rule 12, par. 1, of the Court, among other things, provides, "there shall be presented by the appellant a separate typewritten statement particularly disclosing the basis upon which it is contended that this Court has jurisdiction upon appeal to review the judgment or decree in question. The statement shall refer distinctly (a) to the statutory provision believed to sustain the jurisdiction, * * *."

Rule 12 of the Court refers to the jurisdictional statement in the case of an appeal and prescribes what the statement shall contain. Rule 38 prescribes that a petition shall be filed when making application for certiorari and prescribes that a statement particularly disclosing the basis upon which it is contended this Court has jurisdiction to review the judgment or decree and in that particular refers to Rule 12, par. 1. Indicating that the petition must meet the requirements of Rule 12, par. 1, one of which is that the statement shall refer distinctly to the statutory provision believed to sustain the jurisdiction.

The petition in this case does not meet the requirements of Rule 38 or of Rule 12. It is true that in his brief petitioner makes a statement of jurisdiction and refers to statutory provisions but we respectfully submit that this does not comply with the rules and since certiorari is not a writ of right and since failure to comply with the requirements of the rules is sufficient reason for denying the petition, according to Rule 38, par. 2, the writ in this case should be denied.

Respectfully submitted,

HARRY G. WALTNER, JR.,
Jefferson City, Missouri,
Counsel for Respondent.

SAM BUSHMAN,
Jefferson City, Missouri,
Of Counsel.